

REMARKS

Claim 2 has been canceled. No new claims have been added. Claims 1, 3-5, 8-12, and 21 have been amended. Applicants submit that all amendments are supported by the application-as-filed and that no new matter has been added. Claims 1, 3-14, and 21 are now in the application.

On page 2 of the Official Action, the examiner required election of a single species. On page 3 at numbered paragraph 2, the examiner acknowledged applicants' election of the species of FIGURES 1-3. Applicants again affirm the election of species of FIGURES 1-3.

Regarding numbered paragraph 3, applicants acknowledge that Claims 6-7 and 13-14 are withdrawn from further consideration until such time as a generic claim is found allowable.

Regarding numbered paragraph 4, two minor amendments have been made to the specification to improve grammar.

Regarding numbered paragraph 5, the Abstract has been amended to comply with the issues raised.

Regarding numbered paragraph 6 -

*Figures 2 and 5 are inconsistent with the description on page 8.* The description of FIGURE 2 on page 8 has been amended to obviate the objection thereto. A marked-up copy of FIGURE 4 is attached showing the "line 5-5".

*Figures 3-4 are inconsistent with the description at page 15 starting at line 18....* The specification has been amended to bring the specification into consistency with FIGURES 3-4.

Applicants wish to also call the examiner's attention, at this point, to changes which applicants have made in FIGURE 3, at applicants' instance. Namely, applicants noted that the layer configurations at fasteners 31A, 31B in FIGURE 3 are inconsistent with the layer configurations in FIGURE 2. To correct such inconsistency, the un-numbered pairs of dashed and solid vertical lines next outwardly of each of the

fasteners 31A, 31B, have been reversed such that the most centrally-located such lines are now solid instead of being dashed, and the more outwardly-located such lines are now dashed instead of being solid.

*In Figure 1, the lines from 74, 78, and 52 should be dashed.... Also 92 should be 94.* The lines have been dashed in the accompanying marked-up FIGURES. "92" has been changed to 94.

*In Figures 3 and 4, 52 should be 74 and the line therefrom should be dashed....* The number "52" has been changed to 74, and the line therefrom is shown dashed in the marked-up copy of the drawings submitted herewith.

Regarding paragraph numbered 7, applicants understand that the formal drawings are being held in abeyance until drawing informalities have been overcome.

Regarding paragraph numbered 8, and use of trademarks on pages 14 and 21, corrective amendments to the specification have been made to properly designate the trademarks used thereat.

Regarding paragraph number 9, the term "user" on page 12 line 23 should be interpreted to mean "wearer" or "caregiver". The manufacturer makes such product, but does not "use" such product, and thus is not a "user" of the absorbent articles of the invention, within the meaning of the specification. Applicants request that the examiner acknowledge recognition of same.

Regarding paragraph numbered 10 -

*The Summary of the Invention Section, i.e. a description of the claimed invention, and the invention of the claims are not commensurate.* The Summary has been amended to be commensurate in scope with the claims.

*The Figures and description are inconsistent.* The FIGURES and description have both been amended in bringing the FIGURES and description into a condition of being consistent with each other.

*The terminology on page 25 should be avoided because....* The terminology on page 25 has been deleted.

Regarding paragraph numbered 11 -

*In claim 8, line 6, "one or more" should be --at least one--, line 7, "sites" should be --site--, line 15, "site" should be --sites--.* The requested amendments have been made.

Also in Claim 8 at line 16, the examiner requested that "that such" should be --such that said--. In response, applicants have replaced "that such" with --that said--. Applicants submit that the replacement language obviates the rejection.

*Claims 1, 3-5, 9-12, and 21, line 1, "A" should be --The--.* Claim 2 has been canceled. All other claims have been amended as requested.

*In claims 1 and 21, lines 1-2 seem to be missing a word or words, i.e. line 1, after "8," or "1," resp., --wherein-- should be inserted and on line 2, "being" should be --is--.* Applicants traverse this rejection in that the examiner is doing no more than imposing her preferred writing style on applicants, and substituting her judgement for applicants'. Nevertheless, in order to remove this matter as an issue in the case, the required amendments have been made. Applicants submit that in making this amendment, neither the scope nor the clarity of the claim has been changed.

*In claims 2 and 9, line 2, "respective" should be deleted. In claims 4 and 11, lines 2 and 3, resp., "employment of" should be deleted.* The requested amendments have been made in Claims 4, 9, and 11. Claim 2 has been canceled, obviating the objection to Claim 2.

#### Rejection Under 35 U.S.C. 112 Second Paragraph

Regarding numbered paragraphs 12 and 13 of the Official Action, Claims 2 and 9 were rejected under 35 U.S.C. 112 second paragraph as being redundant. Claim 2 has been canceled, obviating the rejection.

#### Rejections Under 35 U.S.C. 102(b)

Claims 1-5, 8-12, and 21 were rejected separately under 35 U.S.C. 102(b) as being anticipated by Romare and McNichols '805. Applicants respectfully traverse the rejection.

Independent Claim 8 has been amended to recite each lateral section (28, 29) having an inner portion releasably fastened to said front portion closer to the longitudinal

axis than to the respective side edges, and an outer portion attached at at least one attachment site to said front portion inwardly of, but adjacent the respective said first and second side edges, each of said first and second lateral sections being free from attachment to the front portion between the releasable fastening at the respective inner portion and areas adjacent the first and second side edges of the front portion.

The added language regarding *closer to the longitudinal axis than to the respective side edges* finds support in the drawings at original FIGURES 1 and 3. Specific language has been amended into the text at page 9 line 16 of the specification. No new matter has been added since the text simply describes what is shown in FIGURES 1 and 3 as originally filed.

The added language regarding *adjacent the respective said first and second side edges* finds support in the specification at page 11 lines 28-29.

The added language regarding the freedom from attachment finds support in FIGURES 1, 3, and 4 as originally filed. Specific textual support for such claim language has been amended into the specification at page 11 line 29. No new matter has been added since the added text simply describes what is shown in FIGURES 1, 3, and 4 as originally filed.

Applicants' specification teaches at page 11 line 24 to page 12 line 18 that the attachment sites 46 need to be easily broken, but also need to be sufficiently strong to prevent inadvertent breaking of the attachment sites. Such breakage control while achieving desired strength for the bond sites requires that the bonds 46 be clustered in specific areas

Turning now to the merits of Claim 8, Romare teaches his pattern *extending over essentially the whole of said piece of material [9]*. Thus, Romare fails to teach or suggest the free from attachment feature now recited in Claim 8, and his uniform distribution defeats applicants' desired level of strength while facilitating breakage of the bonds when desired.

McNichols illustrates but does not describe an area between fasteners 62 and the locus of attachment of side panels 28 to the rear portion of the absorbent article, which is devoid of attachment to the front portion. However, McNichols does not teach or suggest such structure in a lateral section whose releasable fastener is closer to the longitudinal axis than to the respective side edges of the front portion, as in Claim 8.

Combining the lateral section of Romare into McNichols fails to cure the McNichols positioning defect, and retains the uniform distribution defect of Romare.

SN: 09/834,682

29566/KC15,412  
Patent

Combining the side panels of McNichols into the structure of Romare, even if the side panels are repositioned toward the center of the front portion, defeats the uniform distribution required by Romare. Thus, Romare teaches away from such combination, and is thus not obvious.

In view of the above, Claim 8, and all claims dependent therefrom, are both novel and unobvious over the references of record.

Further, in light of the amendment to Claim 8, and in light of the patentable distinctiveness of Claim 8 with respect to McNichols, the double patenting rejection is obviated and should be withdrawn.

Applicants submit that all claims as presented herein are allowable over all references of record. Allowance is respectfully solicited. No fee is believed to be due. Should any fee be properly due, or if any refund is due, kindly charge same, or credit any overpayment, to Deposit Account 23-2130.

Please feel free to contact me with any questions, comments or concerns, at the telephone number listed at the end of this document.

Respectfully submitted,  
Robert Eugene Vogt et al

By: Thomas D. Wilhelm  
Thomas D. Wilhelm  
Attorney for Applicants  
(Reg. No. 28,794)

Customer Number: 23482

December 30, 2002  
100 W. Lawrence Street, Third Floor  
Appleton, Wisconsin 54911  
920-831-0100  
FAX: 920-831-0101

APPENDIX AVERSION WITH MARKINGS TO SHOW CHANGES MADEIn the Specification

In the Summary, please delete the text beginning at page 5 and extending through page 7, namely the following:

[In a third family of embodiments, the invention comprises a method of assembling a pant-like personal care article having a front portion defining a front end, a second end, a first side edge, and a second side edge, a back portion having a back end, a third side edge and a fourth side edge, and a crotch portion between the front portion and the back portion. The method comprises releasably fastening inner portions of first and second lateral sections to the front portion; attaching outer portions of the first and second lateral sections to the front portion adjacent the respective first and second side edges of the front portion; and securing the outer portions of the first and second lateral sections to the back portion, with the strength of securement being greater than the strength of attachment of the outer portions of the lateral sections to the front portion, to form the pant-like article, having a waist opening and first and second leg openings. The attachments of the outer portions of the lateral sections to the front portion are such that the outer portions of the lateral sections can be separated from the front portion without separating the securement of the first and second lateral sections from the third and fourth side edges of the back portion.

In some embodiments, the method includes attaching the outer portions of the first and second lateral sections to the front portion adjacent the respective first and second side edges of the front portion before attaching the outer portions of the first and second lateral sections to the back portion.

In preferred embodiments, the method includes attaching the outer portions of the lateral sections to the front portion by employing at least

one of adhesive bonds, ultrasonic bonds, hook and loop fastening, and thermally activated bonding.

In preferred embodiments, the method includes attaching the outer portions of the lateral sections to the front portion with sufficiently weak attachments whereby such attachments can be separated from the front portion without substantially fracturing the front portion.

In a fourth family of embodiments, the invention comprehends a method of using a pant-like personal care article having a waist opening and first and second leg openings. The personal care article has a front portion defining a front end, a second end, a first side edge, and a second side edge, a back portion having a back end, a third side edge, and a fourth side edge, and a crotch portion between the front portion and the back portion. Inner portions of first and second lateral sections are releasably fastened to the front portion, and outer portions of the first and second lateral sections are secured to the back portion. The method comprises attaching outer portions of the first and second lateral sections to the front portion adjacent the respective first and second side edges of the front portion with the strength of attachment being less than the strength of securement of the outer portions of the lateral sections to the back portion; and separating the outer portion of at least one of the first and second lateral sections from the attachments to the front portion adjacent the respective one of the first and second side edges without separating the respective outer portion of the respective lateral section from the respective securement to the back portion.

The method preferably includes attaching the outer portions of the lateral sections to the front portion by employing at least one of adhesive bonds, ultrasonic bonds, hook and loop fastening, and thermally activated bonding.]

Page 8 please replace the paragraph which begins at line 7 and extends to line 8 as follows.

--FIGURE 2 shows a cross-sectional view of a portion of the personal care article taken at line 2-2 of FIGURE 1.--

Page 9 please replace the paragraph which begins at line 14 and extends to line 18 as follows.

--First lateral section 28 includes an inner portion 36A having an inner edge 39A, and an outer portion 37A having an outer edge 38A. Inner portion 36A of first lateral section 28 comprises a fastener 31A affixed at or near inner edge 39A, closer to the X-axis than to outer edge 38A, and wherein at least a portion of fastener 31A overlaps inner edge 39A to provide a cooperative engagement relationship with fastener-receptive area 56.--

Page 9 please replace the paragraph which begins at line 19 and extends to line 23 as follows.

--Similarly, second lateral section 29 includes an inner portion 36B having an inner edge 39B, and an outer portion 37B having an outer edge 38B. Inner portion 36B of second lateral section 29 also comprises a fastener 31B affixed at or near inner edge 39B, closer to the X-axis than to outer edge 38B, and wherein at least a portion of fastener 31B overlaps inner edge 39B to provide a cooperative engagement relationship with fastener-receptive area 56.--

Page 11 please replace the paragraph which begins at line 8 and extends to line 14 as follows.

--FIGURES 1, 3, and 4 illustrate attachment of lateral sections 28 and 29 to front portion 20 at attachment sites 46. Two attachment sites 46 are illustrated on outer portions 37A and 37B of respective lateral sections 28 and 29, adjacent respective side edges 23 and 25 of front portion 20, outer portions 37A and 37B being disposed outwardly of respective fasteners 31A and 31B, toward outer edges 38A and 38B. The primary purpose of attachment sites 46 is to control lay of the respective outer portions of the lateral sections against front portion 20 so as to assist in forming side seams as at 63 and 65 between back portion 40 and the respective lateral sections.--



Page 11 please replace the paragraph which begins at line 28 and extends to line 32 as follows.

--Referring to FIGURE 1, attachment sites 46 should be located just inwardly of, but adjacent, side edges 23 and 25 of front portion 20, relative to the X-axis. As illustrated in FIGURES 1, 3, and 4, lateral portions 28, 29 are free from attachment to the front portion between fasteners 31A and 31B and areas adjacent side edges 23 and 25. Attachment sites 46 should be designed and constructed so that the attachment sites can be easily broken to enable adjusting the size of personal care article 10 to the size of the wearer, as desired. --

Page 12 please replace the paragraph which begins at line 15 and extends to line 28 as follows.

--FIGURES 4 and 5 illustrate another embodiment of the invention, wherein personal care article 10 uses temporary attachment of the first and second lateral sections 28 and 29 to front portion 20, as well as to each other. In this embodiment, first and second lateral sections 28 and 29 are joined to each other by a line of weakness 45 when assembled into the personal care article. Line of weakness 45 can comprise, for example, a line or lines of weakness which, when broken, define inner edges 39A and 39B (FIGURE 4) which generally correspond to inner edges 39A and 39B of FIGURES 1 and 3. Line of weakness 45 is designed and constructed to be readily broken, but only if and when desired by a wearer or caregiver [user].--

Page 13 please replace the paragraph which begins at line 9 and extends to line 11 as follows.

--As in the previous embodiments, first and second lateral sections 28 and 29 of personal care article 10 are attached to front portion 20 of the personal care article by using releasable bond [bonds] sites 46.--

Page 13 please replace the paragraph which begins at line 12 and extends to line 19 as follows.

--Now referring back to FIGURE 2, each of first and second lateral sections 28 and 29 can be formed from a single layer of e.g. web material

or can comprise two or more layers generally bonded together so as to co-act as a unitary element. When the first and second lateral sections comprise two or more layers, inner layer 48, which is disposed toward the wearer's body, is preferably soft, and liquid-permeable. Outer layer 49, disposed outwardly of the wearer's body, from layer 48, is preferably liquid-impermeable. In some embodiments first and second lateral sections 28 and 29 are liquid-permeable and are constructed from soft material such as non-wovens.--

Please replace the paragraph which begins at page 13 line 32 and extends to page 14 line 5 as follows.

--As illustrated in the respective FIGURES, elastic strands 52 provide first and second lateral sections 28 and 29 with extendible properties. Alternatively, first and second lateral sections 28 and 29 can be formed from a material which exhibits or can be modified to exhibit elastic properties. Elastic strands 52 can be formed from e.g. rubber, polyurethane, styrene butylene styrene copolymer, styrene ethylene butylene styrene copolymer, or other elastomeric materials. A typical material is LYCRA[®] spandex which is commercially available from E.I. Du Pont De Nemours and Company, Wilmington [Wilmington], Delaware.--

Page 15 please replace the paragraph which begins at line 1 and extends to line 11 as follows.

--In the embodiment illustrated in FIGURE 2, inner portions 36A and 36B of first and second lateral sections 28 and 29 are releasably fastened to front portion 20 by fasteners 31A and 31B. In FIGURES 1 and 2, fastener-receptive area 56 on front portion 20, and fasteners 31A and 31B on the lateral sections, cooperate to fasten inner portions 36A and 36B of the lateral sections to front portion 20. As previously discussed, front portion 20 can be constructed from a material which has fastener-receptive properties. In the alternative, a separate piece of landing zone material can be secured in the front portion to provide such fastener-receptive properties to the front portion so as to enable cooperative fastening of corresponding first and

second lateral sections 28 and 29 to front portion 20 using fastening techniques discussed herein.--

Page 15 please replace the paragraph which begins at line 18 and extends to line 22 as follows.

--In FIGURES 3 and 4, elastics have been illustratively omitted from the portions of the lateral sections 28 and 29 which overlie the front portion of the absorbent article, to clarify locations of article components, e.g. attachment sites 46. Although elastics are not specifically illustrated in lateral sections 28 and 29 of FIGURES 3 and 4, such lateral sections are to be understood to comprise any herein described material or composite for constructing lateral sections 28 and 29.--

Page 21 please replace the paragraph which begins at line 13 and extends to line 25 as follows.

--The high-absorbency material in absorbent core 96 can be selected from natural, synthetic and modified natural polymers and materials. The high absorbency materials can be inorganic materials, such as silica gels, or organic compounds, such as cross-linked polymers. The high absorbency materials refer to any structure or composition, along with associated process, which renders normally water-soluble materials substantially water insoluble but swellable, whereby absorbent properties are available but the swelled material is substantially immobile after absorbing water-based liquids. Such superabsorbent material can be fabricated by creating e.g. physical entanglement, crystalline domains, covalent bonds, ionic complexes and associations; hydrophilic associations such as hydrogen bonding, and hydrophobic associations, or Van der Waals forces. Two such superabsorbents are DRYTECH[®] 2035 M superabsorbent and FAVOR[®] SXM 880 superabsorbent. DRYTECH[®] superabsorbent is available from Dow Chemical Company, Midland, Michigan. FAVOR[®] superabsorbent is available from Stockhausen, Inc., Greensboro, North Carolina.--

Page 25, please delete the entire paragraph which extends from line 1 to line 3, as follows.

[To the extent the following claims use means plus function language, it is not meant to include there, or in the instant specification, anything not structurally equivalent to what is shown in the embodiments disclosed in the specification.]

Page 32 please replace the abstract which begins at line 1 and extends to line 14 as follows.

--ABSTRACT OF THE DISCLOSURE

A personal care article having [comprising] a front portion, first and second lateral sections having inner edges releasably fastened to the front portion and first and second outer portions attached to the front portion, a back portion, and a crotch portion between the front portion and [the] back portions. [portion,] Outer edges of the first and second lateral sections are secured to third and fourth side edges of the back portion to form a pant-like article [having a waist opening, and first and second leg openings]. Strength of the attachment of the outer portions of the lateral sections to the front portion is less than strength of securement of the outer edges of the lateral sections to the back portion, whereby the attachments of the outer portions of the lateral sections to the front portion can be separated from the front portion without separating securement of the first and second lateral sections from the side edges of the back portion.--

In the Claims

Please cancel Claim 2 without prejudice and with right of re-entry into this application or any other appropriate application.

Kindly amend Claims 1, 3-5, 8-12, and 21 as follows.

1 (Twice Amended). The [A] personal care article as in Claim 8[,], wherein each of said outer portions of said first and second lateral sections is [being] secured to one of said third and fourth side edges of said back portion to form a pant-like article having a waist opening, and first and second leg openings.

3(Amended). The [A] personal care article as in Claim 1, including an absorbent core attached to at least one of said front portion, said back portion, and said crotch portion.

4(Amended). The [A] personal care article as in Claim 1 wherein the attachment of the outer portions of the lateral sections to the front portion comprises [employment of] at least one of adhesive bonds, ultrasonic bonds, thermally activated bonds, hook and loop fastening, snaps, buttons, tapes, needle punching, and piercing.

5(Amended). The [A] personal care article as in Claim 1 wherein said first and second lateral sections generally overlie said front portion.

8(Twice Amended). A personal care article, having a longitudinal axis, and comprising:

- (a) a front portion having a front end, a second end, a first side edge, and a second side edge;
- (b) a first lateral section and a second lateral section, each of the first and second lateral sections having an inner portion releasably fastened to said front portion closer to the longitudinal axis than to the respective side edges, and an outer portion attached at at least one [or more] attachment site [sites] to said front portion, inwardly of, but adjacent the respective said first and second side edges, each of said first and second lateral sections being free from attachment to the front portion between the releasable fastening at the respective inner portion and areas adjacent the first and second side edges of the front portion;
- (c) a back portion having a back end, a third side edge and a fourth side edge; and

(d) a crotch portion between said front portion and said back portion,

each of said outer portions of said first and second lateral sections being positioned on said front portion for securement to one of said third and fourth side edges of said back portion to form a pant-like article having a waist opening, and first and second leg openings,

strength of attachment, at said attachment sites [site], of said outer portions of said first and second lateral sections to said front portion being sufficiently weak that said [such] attachments can be separated from said front portion without substantially fracturing said front portion.

9(Amended). The [A] personal care article as in Claim 8, said outer portions of said first and second lateral sections each having an [a respective] outer edge extending outwardly of the respective first and second side edges of said front portion whereby said first and second lateral sections are directly secured to respective ones of said third and fourth side edges of said back portion, without intervening material between said lateral sections and said back portion.

10(Amended). The [A] personal care article as in Claim 8, including an absorbent core attached to at least one of said front portion, said back portion, and said crotch portion.

11(Twice Amended). The [A] personal care article as in Claim 8 wherein the attachment at the attachment sites between the outer portions of the lateral sections and the front portion comprises [employment of] at least one of adhesive bonds, ultrasonic bonds, hook and loop fastening, snaps, buttons, tapes, needle punching, piercing, and thermally activated bonding.

12(Amended). The [A] personal care article as in Claim 8 wherein said first and second lateral sections generally overlie said front portion.

21(Amended). The [A] personal care article as in Claim 1 wherein[,] strength of attachment of said inner portions of said first and second lateral sections to said front portion is [being] less than strength of the securement of said outer portions of said first and second lateral sections to said back portion, whereby attachment of said inner portions of said first and second lateral sections to said front portion can be separated from said front portion without separating the securement of said first and second lateral sections from the third and fourth side edges of said back portion.

In the Drawings

Please amend FIGURES 1, 3, and 4 as submitted herewith.